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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board of Housing and Community Development
Virginia Administrative Code (VAC) citation	13 VAC 5-51
Regulation title	Virginia Statewide Fire Prevention Code
Action title	Update of Statewide Fire Prevention Code regulation
Document preparation date	April 7, 2004

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style, and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulatory action is to update the regulation to incorporate by reference the newest available nationally recognized model fire code produced by the International Code Council (ICC). Since the national code is so comprehensive in its scope, the agency will accept comment on all provisions of the regulation to insure its compatibility with the national code.

Public input is important to the development of regulations to meet Virginia's needs. Therefore, the Board is expanding the public comment period in order for the public to see and respond to comment received during the comment period. The Board of Housing and Community Development will use the following procedure to develop proposed regulations and to receive public input:

1. Staff will draft a base document for each regulation under consideration. The purpose of the base document is to make those changes necessary to the regulation to (i) correct unclear or grammatically incorrect language, (ii) correlate the existing regulation with a newer edition of a model code, (iii) make changes necessary to

- comport with state law and (iv) reformat or change the arrangement of the regulation, as needed.
2. Staff also will identify major differences between the editions of the model codes used in the current regulations and the editions of the new model codes being considered. Also, any issues or items that the Board has specifically asked to be considered for the proposed regulation and any code changes that are legislatively mandated will be included in the base documents .
 3. Steps 1 and 2 above will provide the basis for developing a proposed regulation. Once a proposed regulation is adopted by the Board and published, a 60-day public comment period (the first comment period) will be initiated. After the first comment period closes, staff will review all comments and prepare evaluations on each proposal submitted. A package containing all public comment and staff evaluations will be prepared and disseminated to the client groups for review.
 4. An additional 30-day public comment period (the second comment period) will be advertised for the submittal of responses to the staff packages from the first comment period. A public hearing will be held during this second comment period. After the second comment period, staff will prepare a package containing all public comment and the staff evaluations for the Board.
 5. Depending upon the nature and extent of comment received, instead of developing a final regulation immediately, the Board may elect to publish a revised proposed regulation (re-proposed) containing all changes to the original proposed regulation. There will be a 30 day public comment period for any re-proposed regulation.
 6. Following the public comment period on the re-proposed regulation, the Board's Codes and Standards Committee will develop recommendations for the Board for final regulations.

Legal basis

Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority to update the regulation is contained in § 27-97 of the Code of Virginia. The promulgating agency is the Board of Housing and Community Development. State law requires the Board to keep the regulation up to date.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Virginia Statewide Fire Prevention Code (the “SFPC”) has historically been based on nationally recognized model codes and standards as directed by § 27-97 of the Code of Virginia. The former three model code organizations in the U.S. have merged into one organization called the International Code Council, or ICC. ICC produces a full set of model codes and standards every three years. The first set was known as the 2000 edition. The 2003 edition has now been approved and is available. Among the codes is the ICC Fire Prevention Code. This is a companion documents to those codes used in the Virginia Uniform Statewide Building Code (the “USBC”). Consequently, as the USBC is also being updated to the new ICC codes, the SFPC is also being updated to reference the 2003 edition of the International Fire Code. The specific reason for the action being essential to protect the health, safety or welfare of Virginia’s citizens is that when new nationally recognized codes and standards become available, they are considered to be the latest consensus of all affected groups and persons for providing safe buildings and structures at the least possible cost and therefore should be incorporated into the SFPC when available. Potential issues to be addressed during the updating of the SFPC are generally determined by the individuals and client groups who review the newest ICC codes and submit comments where appropriate.

The major changes from the 2000 model codes to the 2003 model codes are as follows:

1. New standards for the proper storage and refueling of hydrogen vehicles are included in the 2003 IFC. Federal policies on energy conservation to reduce the dependence on foreign oil and to find alternate sources of fuel for vehicles are the two main impacts of this new standard.
2. Open flame grills could now be used where the balcony has installed sprinkler protection. This responds to the desire of apartment dweller to use open flame grills while at the same time providing the necessary protection for the occupants and to prevent the spread of fire into the building.

The 2003 ICC model codes under consideration are available to be seen at the Department of Housing and Community Development, 501 North Second Street, Richmond, Virginia during regular office hours (call 804-371-7160). These codes are also available in some public libraries.

Information on ICC and its model codes is available online at <http://www.iccsafe.org/>

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

There are no viable alternatives that the Department is aware of which will accomplish the purpose of the action.

Impact on family

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The Department is not aware of any potential impact of this action on the institution of the family or on family stability.